



COUNCIL OF THE DISTRICT OF COLUMBIA  
1350 PENNSYLVANIA AVENUE, N.W.  
WASHINGTON, D.C. 20004

Phil Mendelson  
Chairman

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August 24, 2012

Irvin B. Nathan, Esq.  
Attorney General, D.C.  
441 Fourth Street, NW, Suite 1100-S  
Washington DC 20001

RE: Reckless Driving

Dear Mr. Nathan:

As you may know, Councilmember Cheh has proposed emergency legislation to amend the law regarding reckless driving. The proposal seeks to address a problem with District residents having their license suspended because of speeding tickets issued in Virginia. Apparently the Commonwealth's law authorizes police to cite speeding over 80 mph – even on Interstate highways – as “reckless driving.” When this is reported to the District's Department of Motor Vehicles (DMV), 12 points are assigned to the driver's record and his or her license is automatically suspended.

No District resident should lose his or her driver's license solely because he or she was driving 81 mph on an Interstate. A July 30, 2012 Washington Post article (“*D.C. Drivers Hurt By Tough Interpretation of Va. Offenses*”) conveys the unfairness with specific examples.

However, I question whether legislation is necessary to fix this situation, and I question the authority of DMV to automatically suspend a license based on what is nothing more than a speeding ticket. Further, if the authority exists, then it is a matter of discretion. Either way, I request that you advise the DMV that it must cease these automatic license suspensions and that it must restore the drivers' licenses in all cases where speeding is the sole element of the violation.

Based on my office's communications with the agency's counsel, the DMV is citing to various authorities for its nondiscretionary, automatic suspension of drivers' licenses. It cites to the interstate compact (D.C. Code § 50-1001), but Article IV, section (b) does not require that the offense of “reckless driving” in another state be treated as “reckless driving” in every state. DMV also cites to § 50-2201(d)(4), which, according to DMV, “requires the revocation of a person's license who is convicted of reckless driving.” But § 50-2201.05(d) applies only when the offense has been committed in the District.<sup>1</sup> The present issue is offenses committed in the Commonwealth of Virginia.

D.C. Official Code § 50-1301.37(a) requires suspension of a drivers license for reckless driving. But, importantly, the reckless driving must also involve “personal injury” (§ 50-1301.37(a)(4)). The present issue is offenses that involve speeding only.

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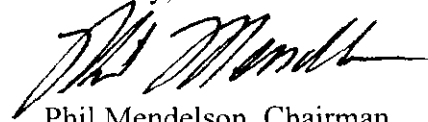
<sup>1</sup> It is unclear whether bodily injury is a necessary element of this provision. Revocation is required “...as a result of the commission in the District of ... (4) Reckless driving or operating or being in physical control of a vehicle while the ability to operate is impaired by the consumption of intoxicating liquor involving bodily injury.”

D.C. Official Code § 50-2201.04 establishes the offenses of speeding and reckless driving committed in the District of Columbia. Subsection (a) prohibits speeding. Subsection (b) prohibits reckless driving. The two, obviously, are different. Subsection (b) requires several elements: "Any person who drives any vehicle upon a highway carelessly and heedlessly in willful or wanton disregard of the rights or safety of others, or without due caution and circumspection and at a speed or in a manner so as to endanger or be likely to endanger any person or property, shall be guilty of reckless driving." Much more is required for a violation of "reckless driving" than for speeding. The present issue is offenses committed in Virginia where the only element is driving as little as 11 mph over the speed limit.

For an offense in another jurisdiction to be treated the same in the District, the offense must be the same, or substantially similar. Mere speeding in the District is not "reckless driving"; driving 11 mph over the speed limit on an Interstate is not "reckless driving" in the District. The DMV is wrong in its interpretation and application of the law.

I request that your office review the District law and DMV's actions and advise the DMV that it must cease license suspensions and restore drivers' licenses in all cases where the basis for the infraction was solely driving over the speed limit.

Sincerely,

A handwritten signature in black ink, appearing to read "Phil Mendelson", written in a cursive style.

Phil Mendelson, Chairman  
Committee on the Judiciary

enc. (7/30/12 *Post* article)  
cc: Councilmember Mary Cheh